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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,849	09/05/2003	Guy C. Renzi		7075

7590 06/30/2004
Mr. Walter J. Tencza Jr.
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EXAMINER

ARK, DARREN W

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,849

Applicant(s)

RENZI, GUY C.

Examiner

Darren W. Ark

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/5/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species I - Figs. 1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A; Species II - Figs. 1B, 2B, 3B, 4B, 4C, 5B, 6B, 6C, 7B, 8B; and Species III - Figs. 9A, 9B, 10.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Walter J. Tencza, Jr. on Friday, June 18, 2004 a provisional election was made with traverse to prosecute the invention of Species II, claims 1-4 and 8-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-7 and 12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 20d, 22d in Fig. 4A. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

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action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: 416a. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to because no. 411 is not shown in Fig. 2B (as stated on spec. pg. 9, lines 20 and 21). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the

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remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

Page 9, lines 20 and 21, the phrase "a gap 411 shown in Fig. 2B, between top plate 412 and top surface 416a" is not clearly shown in the Figure and that possibly another Figure was intended to be described.

Page 10, line 15, the second occurrence of "spacer" at the end of the line should be deleted.

Page 10, line 20, "430" should be replaced with "440".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-4, 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Newell 124,149.

Newell discloses a door (opening defined as B; "door" defined as "2. The entranceway to a passage, room or building" in Webster's II New Riverside University Dictionary 1994) having a bottom surface (bottom surfaces on either side of bottom of B); a pest control device with a first member (E) with a plurality of holes (see Figs. 1, 2 where a penetrates E); a plurality of pins (a), each which slides within the plurality of holes of the first member (see positions of a in Figs. 1, 2); and wherein the first member is fixed to the door so that each of the pins is perpendicular to the bottom surface of the door (E is affixed to upper portion of B).

In regard to claim 3, Newell discloses the first member (E) being fixed to a first plate (C or G; all parts are interconnected together) fixed to the door (C is fixed to the side of B).

In regard to claim 10, Newell discloses the first member (E) being fixed to a first bracket (C or G; all parts are interconnected together) fixed to the door (C is fixed to the side of B).

9. Claims 1-4, 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ewert 478,930.

Ewert discloses a door (opening defined by A at bottom, L', and between either C & D or D & D, and also B at the top; "door" defined as "2. The entranceway to a passage, room or building" in Webster's II New Riverside University Dictionary 1994) having a bottom surface (A or K'); a pest control device with a first member (O and

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coinciding parts of E) with a plurality of holes (O^1 , O^2 , O^3); a plurality of pins (L, N), each which slides within the plurality of holes of the first member (see Figs. 1, 4); and wherein the first member is fixed to the door so that each of the pins is perpendicular to the bottom surface of the door (L, N are perpendicular to A, K').

In regard to claim 3, Ewert discloses the first member (O) being fixed to a first plate (E; all parts are interconnected together) fixed to the door (E is fixed to parts forming door).

In regard to claim 10, Ewert discloses the first member (O) being fixed to a first bracket (E forms part of bracket with side portions extending at right angles therefrom; all parts are interconnected together) fixed to the door (E is fixed to parts forming door).

10. Claims 1, 3, 8, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Neid 2,842,891.

Neid discloses a door (opening defined by 13, 16, 20-23; "door" defined as "2. The entranceway to a passage, room or building" in Webster's II New Riverside University Dictionary 1994) having a bottom surface (30); a pest control device with a first member (24 with plurality of 24-27) with a plurality of holes (see Fig. 2 where 28 penetrates 25); a plurality of pins (28), each which slides within the plurality of holes of the first member (when 28, 29 are assembled with 25, 28 is slid through the aperture in 25; also 28 is not glued in the aperture in 25); and wherein the first member is fixed to the door so that each of the pins is perpendicular to the bottom surface of the door (see Fig. 2).

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In regard to claim 3, Neid discloses the first member (24) being fixed to a first plate (20 or 21) fixed to the door (fixed to 13, 16).

In regard to claim 10, Neid discloses the first member (24) being fixed to a first bracket (20 or 21) fixed to the door (fixed to 13, 16).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Ark whose telephone number is (703) 305-3733. The examiner can normally be reached on M-Th, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Darren W. Ark
Primary Examiner
Art Unit 3643

DWA